

**UNITED STATES DISTRICT COURT
for the WESTERN DISTRICT OF NORTH CAROLINA
1:06cv199**

Melanie Pitrolo,

Plaintiff,

vs.

:
:
:

County of Buncombe, North
Carolina, et. al,

Defendants.

Clerk's Stay of Costs

This matter is before the Clerk on the "Bill of Costs" filed by Defendants on December 7, 2007, and Plaintiff's "Motion for Disallowance of Costs and Supporting Brief" filed December 11, 2007.

Plaintiff objects to the awarding of costs on the grounds that the request for costs is premature due to the "Notice of Appeal" Plaintiff filed on November 6, 2007.

The Honorable Lacy Thornburg, United States District Judge entered a final order granting Defendants' "Motion for Summary Judgement" and a "Final Judgment" on October 10, 2007. Plaintiff appealed the "Memorandum Opinion and Order" of this court on November 6, 2007. The "Bill of Costs" was filed the next day by Plaintiff on December 7, 2007.

The Clerk will not consider the awarding of costs as this time as Local Civil Rule 54.1 requires the prevailing party to request such consideration after the appeal is terminated. This local rule states in pertinent part:

LCvR 54.1 Taxation of Costs Other Than Attorneys' Fees.

- (A) Filing Bill of Costs. A prevailing party may request the Clerk of Court to tax allowable costs, other than attorneys' fees, in a civil action as part of a judgment or decree by electronically filing a bill of costs on a form available from the Clerk of Court, within (30) days after:
 - (2) receipt by the Clerk of Court of the mandate or other Order terminating the action on appeal.

Local Civil Rule 54.1(A)(2).

THEREFORE, the “Bill of Costs” filed by Defendants is **STAYED** until such time as the Clerk receives the mandate or other Order terminating this matter on appeal. **FURTHER, IT IS HEREBY ORDERED** that Plaintiff shall have ten (10) days from the date of such mandate or Order to file any objections to the specific costs being requested by the Defendants in their “Bill of Costs”. Within five (5) days thereafter, Defendants may file a response with brief to any filed objections in accordance with LcvR 54.1(D).

Signed: March 18, 2008


Frank G. Johns, Clerk
United States District Court

